UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR 05 2010

REPLY TO THE ATTENTION OF: WW-16J

Ginger Mullins, Chief
Regulatory Branch
U.S. Army Corps of Engineers
Huntington District
Attn: CELRH-OR-F
502 Eighth Street
Huntington, WV 25701-2070

Subject: LRH-2007-1021-Kaiser Mathias

Dear Ms. Mullins:

U.S. Environmental Protection Agency, Region 5, has completed its review of Oxford Mining's proposed Kaiser Mathias mine in Tuscarawas County, Ohio. This review was conducted under the Enhanced Coordination Procedures (ECP) for surface coal mining applications, as detailed in the June 30, 2009, *Memorandum of Understanding among the U.S. Department of the Army, U.S. Department of the Interior, and U.S. Environmental Protection Agency Implementing the Interagency Action Plan on Appalachian Surface Coal Mining*. This project was placed on the final list of applications subject to the ECP on September 30, 2009, due to environmental concerns over the potential for further impact minimization and the inadequacy of proposed compensatory mitigation, specifically the lack of long-term site protection.

The ECP 60-day coordination period was begun by Huntington District on October 5, 2009, and would have originally concluded on December 3, 2009. During discussions on potential resolution of EPA's concerns, it was discovered that the Huntington Corps District had not been aware the State of Ohio was still processing Oxford's SMCRA application for the mine, and the SMCRA review was not anticipated to be complete for several months. As a result, Huntington District requested that the ECP coordination be placed on hold while the District waited for final SMCRA authorization. Following SMCRA authorization, and the finalization of Huntington District's application review, the District notified Region 5 on January 6, 2010, that they had reinitiated the 60-day coordination period for resolving environmental concerns through the ECP. Following discussion with the applicant and the Huntington District, EPA believes the previously identified environmental concerns have been addressed, and the application may be finalized by the Corps.

The applicant proposes to discharge 1,850 cubic yards of fill material into 0.98 acres of jurisdictional wetlands and 2,352 linear feet (lft) of jurisdictional streams. Impacts to these waters would occur in association with surface coal mining activities such as pond construction

and coal removal. It is EPA's understanding that this project will be authorized under a Nationwide Permit #49, for coal remining activities. To demonstrate that water quality will improve as a result of this project, the applicant proposes to reclaim abandoned mine lands by removing 193 acres of pit impoundments, backfilling 24,042 lft of highwall to the approximately original contour and reducing sediment loading through reclamation and revegetation of exposed soils. The applicant also proposes to reconstruct 2,571 lft of both jurisdictional and non-jurisdictional streams using natural channel design and 1.47 acres of wetlands on site. The reconstructed streams will have a 50 foot wide riparian corridor and both streams and wetlands will be preserved with conservation easements.

Stream impacts have been reduced 80%, from 12,930 lft to 2,352 lft and wetland impacts have been reduced 70%, from 3.39 acres to 0.98 acres. Four hundred and fifty-five (455) acres of the 531 acre mining area has been previously stripped mined and left unreclaimed. Because of these pre-SMCRA, unreclaimed areas, the majority of streams on-site scored low using the Qualitative Habitat Evaluation Index (QHEI) and the Headwater Habitat Evaluation Index (HHEI). Low QHEI and HHEI scores often indicate a lack of species diversity present in the streams as well as poor fish habitat. As a result, the applicant will demonstrate appropriate biological communities are present in the reconstructed streams through direct biological sampling.

Pre-SMCRA, unreclaimed features on site include pits, 80 foot high highwalls and spoil piles, some of which are highly erodible and contribute significant quantities of soils and sediments downstream. Currently, there are an estimated 437.4 tons of soil lost through erosion on site yearly. Through the reclamation practices proposed within this project, total post mining soil loss would be reduced to an estimated 115.66 tons/year and will be monitored as a permit condition. The restoration of pre-SMCRA areas will improve resources in the impaired Stone and Oldtown Creek watersheds by restoring on-site streams using natural channel design and permanently protecting those areas under a conservation easement.

EPA believes the improved mitigation proposal compensates for unavoidable project impacts, which have been significantly reduced. Reclamation of the existing source of water quality problems will provide an overall environmental benefit and ecological lift to the watershed. We have reviewed the draft permit and are satisfied that our concerns have been addressed; therefore, EPA does not foresee any delay in the Corps' ability to issue the permit

I want to thank you and your staff for your cooperation and willingness to address our issues. If you have any question, please call me at 312-886-9296, or Wendy Melgin of my staff at 312-886-7745.

Sincerely,

Tinka G. Hyde
Director, Water Division

cc: OEPA